

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF GEORGIA

2211 UNITED STATES COURTHOUSE

75 TED TURNER DRIVE, SW

ATLANTA, GEORGIA 30303-3361

KEVIN P. WEIMER
DISTRICT COURT EXECUTIVE
AND CLERK OF COURT

DOCKETING SECTION
404-215-1655

November 17, 2023

Clerk of Court
U.S. Court of Appeals for the Eleventh Circuit
56 Forsyth Street, NW
Atlanta, Georgia 30303

U.S.D.C. No.: 1:23-cv-03122-MLB

U.S.C.A. No. 00-00000-00

In re: Mark Walters v. OpenAI, L.L.C.

☒ **Certified copies of the Notice of Appeal, Order and Docket Sheet enclosed.**

This is not the first Notice of Appeal.

☒ **There is no transcript.**

The court reporter is .

There is sealed material in this case.

Other: .

☒ **Fee paid; Receipt Number AGANDC-13036953.**

Appellant has been granted leave to file *in forma pauperis*.

This is a bankruptcy appeal. The Bankruptcy Judge is Judge .

The Magistrate Judge is.

☒ **The District Judge is J. P. Michael L. Brown.**

This is a **DEATH PENALTY** appeal.

Sincerely,

Kevin P. Weimer
District Court Executive
and Clerk of Court

By: /s/ A. Gee
Deputy Clerk

Enclosures

4months,APPEAL,CLOSED,MLBLC1

**U.S. District Court
Northern District of Georgia (Atlanta)
CIVIL DOCKET FOR CASE #: 1:23-cv-03122-MLB**

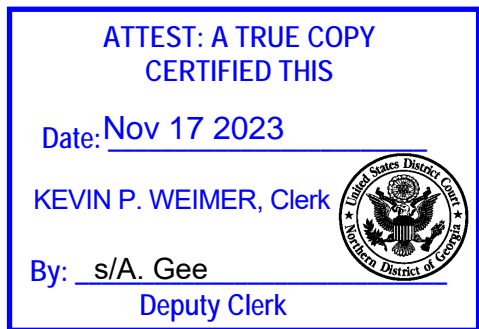
Walters v. OpenAI, L.L.C.
Assigned to: Judge Michael L. Brown
Cause: 28:1446 Notice of Removal – Libel, Assault, Slander

Date Filed: 07/14/2023
Date Terminated: 10/25/2023
Jury Demand: Plaintiff
Nature of Suit: 320 Assault Libel &
Slander
Jurisdiction: Diversity

Plaintiff

Mark Walters

represented by **John R. Monroe**
John Monroe Law, P.C.
156 Robert Jones Rd.
Dawsonville, GA 30534
678-362-7650
Fax: 678-744-3464
Email: jrm@johnmonroelaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED



V.

Defendant

OpenAI, L.L.C.

represented by **Ashley Allen Carr**
DLA Piper LLP (US) – Austin TX
303 Colorado Street
Austin, TX 78701
817-713-5113
Email: ashley.carr@dlapiper.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Brendan Gerard Krasinski
DLA Piper LLP US
1201 W. Peachtree Street NE
Suite 2900
Atlanta, GA 30309
404-736-7861
Email: brendan.krasinski@dlapiper.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Daniel Lee Tobey
DLA Piper LLP (US)
1900 N. Pearl St.

Ste 2200
 Dallas, TX 75201
 214-743-4538
 Fax: 972-813-6275
 Email: danny.tobey@us.dlapiper.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Ilana H. Eisenstein
 DLA Piper LLP (US)
 One Liberty Place
 1650 Market Street
 Suite 5000
 Philadelphia, PA 19103
 215-656-3351
 Fax: 215-606-3351
 Email: ilana.eisenstein@us.dlapiper.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Marie Bussey-Garza
 DLA Piper US LLP – PA
 1650 Market Steet
 Philadelphia, PA 19103
 215-656-3315
 Fax: 215-501-5815
 Email: marie.bussey-garza@us.dlapiper.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Peter Karanjia
 DLA Piper LLP (US)-DC
 500 Eighth Street, NW
 Washington, DC 20004
 202-799-4135
 Email: peter.karanjia@dlapiper.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Date Filed	#	Page	Docket Text
07/14/2023	<u>1</u>		NOTICE OF REMOVAL with COMPLAINT filed by OpenAI, L.L.C. (Filing fee \$ 402 receipt number AGANDC-12743652) (Attachments: # <u>1</u> Exhibit A – Complaint, # <u>2</u> Exhibit B, # <u>3</u> Civil Cover Sheet)(tas) Please visit our website at http://www.gand.uscourts.gov/commonly-used-forms to obtain Pretrial Instructions and Pretrial Associated Forms which includes the Consent To Proceed Before U.S. Magistrate form. (Entered: 07/17/2023)

07/17/2023	<u>2</u>		STANDING ORDER regarding Civil Litigation. Signed by Judge Michael L. Brown on 8/26/2021. (jpk) (Entered: 07/17/2023)
07/17/2023	<u>3</u>		Certificate of Interested Persons and Corporate Disclosure Statement by OpenAI, L.L.C. identifying Corporate Parent OpenAI OpCo, LLC, Corporate Parent OpenAI, Inc., Other Affiliate Microsoft Corporation for OpenAI, L.L.C.. (Krasinski, Brendan) (Entered: 07/17/2023)
07/17/2023	<u>4</u>		Request for Leave of Absence for the following date(s): 7/31– 8/4/2023, 8/9– 8/23/2023 by John R. Monroe. (Monroe, John) Modified to condense dates on 7/18/2023 (kng). (Entered: 07/17/2023)
07/17/2023	<u>5</u>		Certificate of Interested Persons and Corporate Disclosure Statement by Mark Walters. (Monroe, John) (Entered: 07/17/2023)
07/20/2023	<u>6</u>		APPLICATION for Admission of Ilana H. Eisenstein Pro Hac Vice (Application fee \$ 150, receipt number AGANDC–12758076).by OpenAI, L.L.C.. (Krasinski, Brendan) Documents for this entry are not available for viewing outside the courthouse. (Entered: 07/20/2023)
07/20/2023	<u>7</u>		APPLICATION for Admission of Marie Bussey–Garza Pro Hac Vice (Application fee \$ 150, receipt number AGANDC–12758107).by OpenAI, L.L.C.. (Krasinski, Brendan) Documents for this entry are not available for viewing outside the courthouse. (Entered: 07/20/2023)
07/20/2023	<u>8</u>		APPLICATION for Admission of Peter Karanjia Pro Hac Vice (Application fee \$ 150, receipt number AGANDC–12758122).by OpenAI, L.L.C.. (Krasinski, Brendan) Documents for this entry are not available for viewing outside the courthouse. (Entered: 07/20/2023)
07/20/2023	<u>9</u>		APPLICATION for Admission of Ashley Allen Carr Pro Hac Vice (Application fee \$ 150, receipt number AGANDC–12758129).by OpenAI, L.L.C.. (Krasinski, Brendan) Documents for this entry are not available for viewing outside the courthouse. (Entered: 07/20/2023)
07/20/2023	<u>10</u>		APPLICATION for Admission of Daniel Lee Tobey Pro Hac Vice (Application fee \$ 150, receipt number AGANDC–12758215).by OpenAI, L.L.C.. (Krasinski, Brendan) Documents for this entry are not available for viewing outside the courthouse. (Entered: 07/20/2023)
07/21/2023			APPROVAL by Clerks Office re: <u>6</u> APPLICATION for Admission of Ilana H. Eisenstein Pro Hac Vice (Application fee \$ 150, receipt number AGANDC–12758076). Attorney Ilana H. Eisenstein added appearing on behalf of OpenAI, L.L.C.. E–filing access may be requested after an order granting the application is entered. (rvb) (Entered: 07/21/2023)
07/21/2023			APPROVAL by Clerks Office re: <u>7</u> APPLICATION for Admission of Marie Bussey–Garza Pro Hac Vice (Application fee \$ 150, receipt number AGANDC–12758107). Attorney Marie Bussey–Garza added appearing on behalf of OpenAI, L.L.C. E–filing access may be requested after an order granting the application is entered. (rvb) (Entered: 07/21/2023)
07/21/2023			APPROVAL by Clerks Office re: <u>8</u> APPLICATION for Admission of Peter Karanjia Pro Hac Vice (Application fee \$ 150, receipt number AGANDC–12758122). Attorney Peter Karanjia added appearing on behalf of OpenAI, L.L.C. E–filing access may be requested after an order granting the

		application is entered. (rvb) (Entered: 07/21/2023)
07/21/2023		APPROVAL by Clerks Office re: <u>9</u> APPLICATION for Admission of Ashley Allen Carr Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12758129). Attorney Ashley Allen Carr added appearing on behalf of OpenAI, L.L.C. E-filing access may be requested after an order granting the application is entered. (rvb) (Entered: 07/21/2023)
07/21/2023		APPROVAL by Clerks Office re: <u>10</u> APPLICATION for Admission of Daniel Lee Tobey Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12758215). Attorney Daniel Tobey added appearing on behalf of OpenAI, L.L.C. E-filing access may be requested after an order granting the application is entered. (rvb) (Entered: 07/21/2023)
07/21/2023	<u>11</u>	NOTICE by OpenAI, L.L.C. re <u>1</u> Notice of Removal, of <i>Member Citizenship</i> (Krasinski, Brendan) (Entered: 07/21/2023)
07/21/2023	<u>12</u>	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM with Brief In Support by OpenAI, L.L.C.. (Attachments: # <u>1</u> Brief Memorandum of Law In Support of Motion to Dismiss, # <u>2</u> Exhibit Exhibit 1 – Memo of Law, # <u>3</u> Exhibit Exhibit 2 – Memo of Law, # <u>4</u> Exhibit Exhibit 3 – Memo of Law, # <u>5</u> Exhibit Exhibit 4 – Memo of Law, # <u>6</u> Exhibit Exhibit 5 – Memo of Law, # <u>7</u> Exhibit Exhibit 6 – Memo of Law, # <u>8</u> Exhibit Exhibit 7 – Memo of Law, # <u>9</u> Exhibit Exhibit 8 – Memo of Law, # <u>10</u> Exhibit Exhibit 9 – Memo of Law, # <u>11</u> Exhibit Exhibit 10 – Memo of Law, # <u>12</u> Text of Proposed Order Proposed Order Granting MTD)(Krasinski, Brendan) (Entered: 07/21/2023)
07/24/2023	<u>13</u>	ORDER GRANTING <u>6</u> Application for Admission Pro Hac Vice of Ilana H. Eisenstein. Signed by Judge Michael L. Brown on 07/24/2023. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(kng) (Entered: 07/24/2023)
07/24/2023	<u>14</u>	ORDER GRANTING <u>7</u> Application for Admission Pro Hac Vice of Marie Bussey-Garza. Signed by Judge Michael L. Brown on 07/24/2023. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(kng) (Entered: 07/24/2023)
07/24/2023	<u>15</u>	ORDER GRANTING <u>8</u> Application for Admission Pro Hac Vice of Peter Karanjia. Signed by Judge Michael L. Brown on 07/24/2023. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(kng) (Entered: 07/24/2023)
07/24/2023	<u>16</u>	ORDER GRANTING <u>9</u> Application for Admission Pro Hac Vice of Ashley Allen Carr. Signed by Judge Michael L. Brown on 07/24/2023. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(kng) (Entered: 07/24/2023)
07/24/2023	<u>17</u>	ORDER GRANTING <u>10</u> Application for Admission Pro Hac Vice of Daniel Lee Tobey. Signed by Judge Michael L. Brown on 07/24/2023. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they

		must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(kng) (Entered: 07/24/2023)
07/24/2023		Clerk's Certificate of Mailing re <u>13</u> Order on Application for Admission PHV to Ilana H. Eisenstein, <u>14</u> Order on Application for Admission PHV to Marie Bussey-Garza, <u>15</u> Order on Application for Admission PHV to Peter Karanjia, <u>16</u> Order on Application for Admission PHV to Ashley Allen Carr, <u>17</u> Order on Application for Admission PHV to Daniel Lee Tobey. (kng) (Entered: 07/24/2023)
07/26/2023	<u>18</u>	Unopposed MOTION for Extension of Time to file response to Defendant's Motion to Dismiss re: <u>12</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM with Brief In Support by Mark Walters. (Attachments: # <u>1</u> Brief, # <u>2</u> Text of Proposed Order)(Monroe, John) (Entered: 07/26/2023)
07/26/2023	<u>19</u>	ORDER GRANTING <u>18</u> Unopposed MOTION for Extension of Time to file response to Defendant's Motion to Dismiss re <u>12</u> . Plaintiff shall have through and including 9/8/2023 in which to file a response to Defendant's Motion to Dismiss. Signed by Judge Michael L. Brown on 07/26/2023. (kng) (Entered: 07/26/2023)
08/07/2023		ORDER (by docket entry only): Defendant's Notice of Removal (Dkt. 1) does not show the Court has diversity jurisdiction over this case. It establishes neither the requisite amount in controversy nor diversity of citizenship (even considering Defendant's Notice of Member Citizenship (Dkt.11), which simply identifies Defendant's member LLC and then vaguely claims "[n]one of [that] LLC's members or constituent entities are citizens of Georgia."). The Court ORDERS Defendant to show cause, no later than August 21, 2023, why this case should not be remanded for lack of subject matter jurisdiction. The Court ORDERS Plaintiff to file a response brief no later than September 5, 2023. If Defendant does not establish subject matter jurisdiction or otherwise comply with this Order, the Court will remand this case to state court. Ordered by Judge Michael L. Brown on 8/7/2023. (jpk) (Entered: 08/07/2023)
08/07/2023	<u>20</u>	Joint MOTION for Extension of Time to Submit the Joint Preliminary Report and Discovery Plan by OpenAI, L.L.C.. (Attachments: # <u>1</u> Text of Proposed Order)(Krasinski, Brendan) (Entered: 08/07/2023)
08/08/2023	<u>21</u>	ORDER GRANTING <u>20</u> Joint MOTION for Extension of Time to Submit the Joint Preliminary Report and Discovery Plan. The Parties have up to and including 8/28/2023. Signed by Judge Michael L. Brown on 8/8/2023. (kng) (Entered: 08/08/2023)
08/21/2023	<u>22</u>	RESPONSE TO ORDER TO SHOW CAUSE re: Order,,, Set Submission Deadline,,, filed by OpenAI, L.L.C.. (Attachments: # <u>1</u> Exhibit A)(Krasinski, Brendan) (Entered: 08/21/2023)
08/21/2023	<u>23</u>	RESPONSE TO ORDER TO SHOW CAUSE re: Order,,, Set Submission Deadline,,, (Monroe, John) (Entered: 08/21/2023)
08/21/2023	<u>24</u>	CERTIFICATE OF SERVICE of <i>Initial Disclosures</i> by OpenAI, L.L.C..(Krasinski, Brendan) (Entered: 08/21/2023)
08/24/2023	<u>25</u>	Consent MOTION for Extension of Time Submit Joint Preliminary Report and Discovery Plan by OpenAI, L.L.C.. (Attachments: # <u>1</u> Text of Proposed Order

		Proposed Order on Consent Motion)(Krasinski, Brendan) (Entered: 08/24/2023)
08/25/2023	<u>26</u>	ORDER GRANTING <u>25</u> Consent MOTION for Extension of Time Submit Joint Preliminary Report and Discovery Plan. The Parties hereby have up to and including 9/4/2023. Signed by Judge Michael L. Brown on 8/25/2023. (kng) (Entered: 08/25/2023)
09/04/2023	<u>27</u>	JOINT PRELIMINARY REPORT AND DISCOVERY PLAN filed by OpenAI, L.L.C.. (Krasinski, Brendan) (Entered: 09/04/2023)
09/07/2023	<u>28</u>	SCHEDULING ORDER APPROVING <u>27</u> Joint Preliminary Report and Discovery Plan. The time limits for adding parties, amending the pleadings, filing motions, completing discovery, and discussing settlement are as set out in the Federal Rules of Civil Procedure and the Local Rules of this Court. The four-month discovery period will begin to run upon resolution of the pending motion to dismiss <u>12</u> and any subsequent answer filed by Defendant. Signed by Judge Michael L. Brown on 9/7/2023. (kng) (Entered: 09/07/2023)
09/08/2023	<u>29</u>	RESPONSE in Opposition re <u>12</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Mark Walters. (Monroe, John) (Entered: 09/08/2023)
09/08/2023	<u>30</u>	AMENDED COMPLAINT against OpenAI, L.L.C.with Jury Demand filed by Mark Walters.(Monroe, John) Please visit our website at http://www.gand.uscourts.gov/commonly-used-forms to obtain Pretrial Instructions and Pretrial Associated Forms which includes the Consent To Proceed Before U.S. Magistrate form. (Entered: 09/08/2023)
09/14/2023	<u>31</u>	Unopposed MOTION for Extension of Time Respond to Amended Complaint by OpenAI, L.L.C.. (Attachments: # <u>1</u> Text of Proposed Order Proposed Order)(Krasinski, Brendan) (Entered: 09/14/2023)
09/14/2023	<u>32</u>	ORDER: OpenAI, L.L.C.'s Unopposed Motion for Extension of Time to Respond to Amended Complaint is GRANTED. OpenAI, L.L.C. hereby has up to and including October 13, 2023 to respond to Plaintiff's Amended Complaint. Signed by Judge Michael L. Brown on 09/14/2023. (tht) (Entered: 09/14/2023)
09/22/2023		ORDER (by docket entry only): Defendant still has not shown the Court has diversity jurisdiction because it has not yet established the citizenship of OpenAI Holdings, LLC and Aestas Management Company, LLC (both of which are entities in Defendant's membership structure). Defendant claims (1) OpenAI Holdings, LLC has "[m]embers who are citizens of California and Michigan, or are citizens of other countries"; and (2) "Aestas Management Company, LLC's members are citizens of Alaska, Arizona, California, Colorado, Connecticut, the District of Columbia, Delaware, Florida, Illinois, Massachusetts, Maryland, Michigan, North Dakota, New Jersey, Nevada, New York, Oregon, Pennsylvania, Texas, Virginia and Washington, or are citizens of other countries, but not Georgia." (Dkt. 22 paras. 13c, 14.) These allegations are insufficient. Defendant must affirmatively identify by name each member of an LLC and then allege whatever specific facts are necessary to establish the citizenship of that member. The Court will give Defendant one last chance to do so. Defendant must file, no later than October 6, 2023, a single consolidated document showing the Court has subject matter jurisdiction over this action. Failure to do so will result in remand. Ordered by Judge Michael L. Brown on 9/22/2023. (jpk) (Entered: 09/22/2023)

09/26/2023			Submission of <u>12</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM to District Judge Michael L. Brown. (jpk) (Entered: 09/26/2023)
10/06/2023	<u>33</u>		RESPONSE re Order,,,,,, Set Submission Deadline,,,,, filed by OpenAI, L.L.C.. (Krasinski, Brendan) (Entered: 10/06/2023)
10/06/2023	<u>34</u>		MOTION for Attorney Fees with Brief In Support by Mark Walters. (Attachments: # <u>1</u> Brief, # <u>2</u> Affidavit Declaration of John Monroe)(Monroe, John) (Entered: 10/06/2023)
10/13/2023	<u>35</u>		MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM <i>Plaintiff's Amended Complaint</i> with Brief In Support by OpenAI, L.L.C.. (Attachments: # <u>1</u> Brief in Support, # <u>2</u> Exhibit 1 Walters LinkedIn, # <u>3</u> Exhibit 2 About Walters on Ammoland, # <u>4</u> Exhibit 3 Armed American Radio, # <u>5</u> Exhibit 4 Gun Freedom Radio, # <u>6</u> Exhibit 5 Riehl LinkedIn, # <u>7</u> Exhibit 6 About OpenAI, # <u>8</u> Exhibit 7 Terms of Use, # <u>9</u> Exhibit 8 Riehl May 3 ChatGPT, # <u>10</u> Exhibit 9 Riehl May 4 ChatGPT, # <u>11</u> Exhibit 10 Walters May 4 chat history, # <u>12</u> Text of Proposed Order)(Krasinski, Brendan) (Entered: 10/13/2023)
10/16/2023	<u>36</u>		RESPONSE in Opposition re <u>35</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM <i>Plaintiff's Amended Complaint</i> filed by Mark Walters. (Monroe, John) (Entered: 10/16/2023)
10/20/2023	<u>37</u>		RESPONSE in Opposition re <u>34</u> MOTION for Attorney Fees filed by OpenAI, L.L.C.. (Attachments: # <u>1</u> Exhibit Declaration of Kathy Son)(Krasinski, Brendan) (Entered: 10/20/2023)
10/20/2023	<u>38</u>		REPLY BRIEF re <u>34</u> MOTION for Attorney Fees filed by Mark Walters. (Attachments: # <u>1</u> Affidavit Second Declaration of John Monroe)(Monroe, John) (Entered: 10/20/2023)
10/25/2023	<u>39</u>		ORDER REMANDING this case to the Superior Court of Gwinnett County. The Court DENIES AS MOOT Defendant's <u>12</u> and <u>35</u> Motions to Dismiss for Failure to State a Claim. The Court DENIES Plaintiff's <u>34</u> Motion for Attorney Fees. Signed by Judge Michael L. Brown on 10/25/2023. (kng) (Entered: 10/25/2023)
10/25/2023			Civil Case Terminated. (kng) (Entered: 10/25/2023)
10/25/2023	<u>40</u>		Electronically transmitted certified copy of remand order to Superior Court of Gwinnett County. (kng) (Entered: 10/25/2023)
11/16/2023	<u>41</u>		NOTICE OF APPEAL as to <u>39</u> Order on Motion for Attorney Fees,, Order on Motion to Dismiss for Failure to State a Claim,,, by Mark Walters. Filing fee \$ 505, receipt number AGANDC-13036953. Transcript Order Form due on 11/30/2023 (Monroe, John) (Entered: 11/16/2023)
11/17/2023	<u>42</u>		USCA Appeal Transmission Letter to USCA 11th Circuit re: <u>41</u> Notice of Appeal, filed by Mark Walters. (adg) (Entered: 11/17/2023)

Date: Nov 17 2023



)
)
)
)
)
)
)
)

/s/ John R. Monroe

8

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

Mark Walters,

Plaintiff,

Case No. 1:23-cv-3122-MLB

v.

OpenAI, L.L.C.,

Defendant.

_____ /

ORDER

ATTEST: A TRUE COPY
CERTIFIED THIS

Date: Nov 17 2023

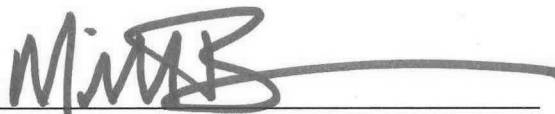
KEVIN P. WEIMER, Clerk

By: s/ A. Gee
Deputy Clerk



Pursuant to the Court's September 22, 2023 Order, and in the light of Defendant's recent withdrawal of its notice of removal (Dkt. 33), the Court **REMANDS** this case to the Superior Court of Gwinnett County. The Court **DENIES AS MOOT** Defendant's Motions to Dismiss (Dkts. 12; 35). The Court **DENIES** Plaintiff's Motion for Costs and Attorney's Fees (Dkt. 34).

SO ORDERED this 25th day of October, 2023.



MICHAEL L. BROWN
UNITED STATES DISTRICT JUDGE